

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL K. TALBURT

Defendant.

Case No. 6:13-cr-03087-MDH-1

ORDER

Before the Court is Defendant’s pro se motion to reduce sentence. (Doc. 42). Defendant is serving a 156-month term of imprisonment for travel with intent to engage in illicit sexual contact in violation of 18 U.S.C. § 2423(b). Defendant is proceeding pro se—to that end, the Court has undertaken to afford Defendant’s motion a liberal construction. *See, Dodd v. United States*, 614 F.3d 512, 516 (8th Cir. 2010). Defendant moves the Court for release based on the current COVID-19 pandemic and his heightened health risk based due to being obese, confined to a wheelchair, having swelling in legs, and the need to use a CPAP machine for breathing. Accordingly, this Motion is more properly construed as a motion for compassionate release, pursuant to § 404(b) of the First Step Act and the Coronavirus Relief (CARES) Act. Defendant claims to have been suffering from COVID-19 while writing the instant motion, which was filed on December 15, 2020.

The Government has not filed a response Defendant’s Motion. Under 18 U.S.C. § 3582(c) a court may not modify a term of imprisonment once it has been imposed except that, under subsection § 3582(c)(1)(A), a court may reduce a term of imprisonment upon finding “extraordinary and compelling reasons” if such reduction is consistent with applicable policy

statements of the Sentencing Commission, after considering the factors set forth 18 U.S.C. § 3553(a), and after determining the defendant is not a danger to the community as provided in 18 U.S.C. § 3142(g). (U.S.S.G. § 1B1.13(2)). The pertinent policy statement defines specific medical, age, and family circumstances as possibly justifying a sentencing reduction, and authorizes a sentencing reduction based on extraordinary and compelling circumstances.

After careful consideration of the record before the Court, the Court hereby **DENIES** Defendant's motion. The Court finds that the Defendant has not established that his condition, including health condition, is so extraordinary or compelling that he should be immediately released. In addition, given the nature of the offense, considerations that the Defendant may be a danger to other persons or community lead this Court to conclude that a reduction in sentence and release is not warranted.

IT IS SO ORDERED.

DATED: January 5, 2021

/s/ Douglas Harpool
DOUGLAS HARPOOL
UNITED STATES DISTRICT JUDGE